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UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

Report of the Expert Group meeting on prudential regulation and supervision of insurance markets in developing countries and countries in transition to market economies

convened by the Secretary-General of UNCTAD
at the Palais des Nations, Geneva
on 19 and 20 June 1995

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GE.95-53279

Guernsey Financial Services Commission

STEVE W. BUTTERWORTH
Superintendent of Insurance

22 August 1995

Letter of transmittal to the Secretary-General of UNCTAD

Sir

I have the honour to submit herewith the report of the Group of Experts called for consultation on the prudential regulation and supervision of insurance markets in developing countries and countries in transition to market economies.

The experts, at your invitation, attended the meeting held at the Palais des Nations, Geneva, on 19 and 20 June 1995 in their personal capacities. The Group unanimously elected me as its Chairman.

The session was attended by seven experts selected by the Secretary-General of UNCTAD, representing supervisory authorities from a number of developing countries, developed countries, one country in transition to a market economy, and from the New York College of Insurance.

The experts discussed various aspects of regulation and supervision of insurance in the context of globalizing and liberalizing of the world. A draft study and an information note has been prepared by the UNCTAD secretariat for presentation to the third session of the Standing Committee on Developing Services Sector - Insurance, to be held on 13-17 November 1995. The final form of this document will reflect additions and improvements proposed by the experts.

I wish to express our appreciation to the UNCTAD secretariat for the assistance rendered during our deliberations and in the preparation of this report.

On behalf of the Group of Experts I have the honour to submit this report to you for consideration and for such action as you consider appropriate.

Respectfully yours

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Report of the Group of Experts on the Prudential Regulation and Supervision of Insurance Markets in Developing Countries and Countries in Transition to Market Economies
19-20 June 1995

I. ORGANIZATION OF THE MEETING

1. A meeting of a group of experts for consultation on regulation and supervision of insurance markets in developing countries and countries in transition to market economies was convened by the Secretary-General of UNCTAD. The names of participants appear in the annex to this report.

2. At its first meeting, the Group elected as Chairman Mr. S.W. Butterworth, Superintendent of Insurance, Guernsey Financial Services Commission, Guernsey, Channel Islands,(United Kingdom).

II. INTRODUCTION

3. Insurance, which provides the basic financial security for all commercial ventures, is an industry that is expected to expand as volumes of trade, services and investment grow with the globalization and liberalization of the world economy. The Group agreed that the development of efficient insurance markets through liberalization and privatization must be accompanied by the establishment of a dynamic regulatory framework that protects all parties concerned. The UNCTAD secretariat had prepared two draft documents: "Regulation and Supervision of Insurance in Developing Countries and Countries in Transition to Market Economies Undergoing Reform towards Liberalization and Competitive Markets" and "Regulation and supervision of insurance operations: analysis of responses to a questionnaire". The Group discussed the papers and related issues with a view to improving and deepening their content before their presentation to the next session of the Standing Committee on Insurance, to be held from 13-17 November 1995. Based on the discussion and inputs provided by the Group, the drafts of the above mentioned texts were amended and two documents produced: a study entitled "Establishment of effective insurance regulatory and supervisory systems"(TD/B/CN.4/52); and a background note, "Regulation and supervision of insurance operations: analysis of responses to a questionnaire and possible elements for establishing an effective insurance supervisory authority"(UNCTAD/SDD/INS 10).

4. The Group expressed appreciation for the draft studies. They were believed to constitute a useful and comprehensive basis for preparation of the final study. The material was expected to serve as an important tool for countries engaged in liberalizing their insurance markets and introducing more competition.

III. SUMMARY OF MAIN FINDINGS AND SUGGESTIONS

5. The following points sum up the main findings and suggestions generally agreed upon by the experts present at the meeting:

(a) When liberalizing an insurance market, the experts strongly suggested that effective regulatory and supervisory systems focusing particularly on prudential regulations and consumer protection should be in place.

(b) Based on the discussions and shared experience of experts, the process of liberalizing the insurance markets would appear to include:

(i)Establishment of competition rules, involving:

- A change in market structure through privatization and the entrance in the market of new participants, domestic and often foreign.

Demonopolization of reinsurance operations will also allow new entrants into the market. More generally, when liberalizing the economy, the demand for insurance tends to increase as state-owned manufacturing or services industries are privatized because under State ownership these entities had been inclined to self-insure.

- A change in the price-fixing mechanism as, under a liberalized insurance market this mechanism shifts away from a system of fixed rates to a system where rates are determined by market forces. The same process may apply to product design.

- The experts believed that, under a liberalized environment, failures and insolvencies of insurance companies were more likely to happen as competitive pressure led some insurers to resort to unsound practices (non-economic pricing, cash-flow underwriting, etc.) in order to obtain market share. Thus, greater consideration should be given to insurance measures for consumer protection. Such measures include the following:

(ii) Establishment of prudential regulation including:

- Setting of initial capital requirements at a level discouraging the entry of unsound operators and of fragmentation of markets;

- Monitoring of ownership, especially in regard to financial security and good management (fit and proper tests);

- Requirements for business/operating plan and estimates, actuarial and auditing reporting;

- Financial solvency requirements, including continuous capital, solvency, reserve and investment adequacy;

- Monitoring of security of reinsurance providers;

(iii) Establishment of performing information systems and improvement of transparency, contributing to greater market efficiency, consisting of:

- Improvement of accounting standards and reporting requirements geared to providing the supervisory authority with relevant and accurate information to enable it to assess the real financial situation of companies;

- Improvement of market transparency and information for insurance consumers. Under a liberalized environment and concomitant lowering of product control, the monitoring of intermediaries (agents, brokers) is of increased relevance. Close monitoring of insurance contracts could balance the information asymmetry that may exist under insurance contracts. Consumer education and establishment of offices whose duty is to respond to insurance customers' complaints also contribute to greater transparency and protection of insurance consumers.

(iv) Establishment of intervention and safeguard mechanisms to protect insurance consumers:

- At set levels of financial difficulties, supervisory authorities should, depending on the severity of the difficulties and with a view to protecting consumers and assuring market stability, take measures ranging from increased monitoring, involvement in the operation of a company (rehabilitation), transfer of part or the entire portfolio of a company, on to initiation of liquidation proceedings;

- So as to safeguard the interest of consumers from the consequences of insolvencies, guarantee funds may be established.

- In regard to foreign participation in the domestic market, the experts believed that such participation could be beneficial in terms of capital, expertise, economies-of-scale, better spread and mutualization of risks. The opening to foreign participation both at the direct level or through reinsurance, however, poses questions in terms of consumer protection, especially with regard to the form of participation and the security assessment.

- The Expert Group expressed the view that liberalization of an insurance market should be considered as a process; before attaining the stage of a mature market, a transition period was necessary during which the elements for establishing a competitive market would be put into place piece-by-piece. A first phase aimed at establishing a fully liberalized market could include:

  - Establishing by law rules of operation for the insurance market, especially prudential regulations in regard to capital, solvency, investment and reserve requirements, as well as the rules related to insurance contracts and consumer information. Differentiation in the regulations of non-life and long-term insurance operations are usually also set by law.

  - The law should moreover specify the role and powers of the supervisory authority so as to secure a certain degree of independence on the part of the supervisory body.

6. The Expert Group recommended that during the first phase of the transition, the rules, especially those related to solvency requirements, should be quite simple and clear. They could be simplified versions of those adopted by developed countries but adapted to the local context. Capital requirements may be set at a rather high level, so as to avoid fragmentation of the market and entry of unsound operators. Accounting standards and reporting requirements should be worked out so as to allow effective supervision of the sector. The entrance and form of foreign participation at this stage was a policy decision matter. While capital and expertise could be derived from their presence, their financial soundness must be taken into consideration. During this first phase in the view of several experts a certain degree of control over rates and products could be maintained so as to allow both industry and the consumer to understand better the conditions prevailing under the new market structure. Further liberalization could ensue as the industry matures and the consumer gains an understanding of insurance.

IV. DISCUSSIONS ON REGULATION AND SUPERVISION OF THE INSURANCE SECTOR

A. The liberalization process in insurance markets

1) Previous situation and changes owing to liberalization in the different regions

7. Regarding the countries of Eastern Europe participants mentioned that prior to reforms, insurance was offered by monopolistic state-owned entities, a system similar to self-insurance since premiums were paid from the state budget into the state budget, and claims settled from the state budget. One expert said that the need for insurance in Russia and other countries of the region was brought about by the privatization process. In Russia insurance operations could only be provided by companies which were registered and fully licensed by the Federation. The expert described the new Russian regulatory system as based firstly on the law, and secondly on goals, rules, and good management practices. Included in these were solvency requirements, technical reserves, the use of auditors and actuaries, whose education had proved quite time-consuming. Prior approval of terms and conditions is also a requirement, and they sought to find the right balance between overregulation and insufficient regulation. Provision was made for special

accounting procedures required for the insurance. As regards foreign participation in the market, today, CIS countries are still almost closed to cross-border activities except reinsurance. Foreign shareholdings are limited to a maximum of 49 per cent in Russia. Such limitations do not exist in Hungary and Poland, however, where, as a result, their markets, and in particularly that of Hungary, are in the hands of foreign companies. The expert stressed the importance of capital accumulation through insurance for the economies of countries in transition. He described two alternatives for balancing supply and demand when privatization of the economy increased the demand for insurance:(a) to let the domestic insurance industry do the job, if the funds available and their degree of organization were sufficient, or (b)to open the market to foreign companies. On the question of changes in the area of regulation, the expert responded that insurance in Russia was not yet well- regulated. Some cross-border activities were permitted, but this was not the case for life insurance. Concerning reinsurance, most transition countries had not yet regulated that area. As for the regulation of technical provisions, Russia had followed the French system closer than the English one.

8. In Latin America, one of the experts explained that the majority of countries had initially worked with a system of fixed rates. The liberalization process had now brought them towards a system of solvency control. Argentina, Chile, Colombia, Mexico and Peru had all oriented their supervisory system primarily towards monitoring solvency. The Chilean experience had led them towards solvency protection and enhanced transparency. With regards to cross-border activities, foreign capital could freely enter Chile and up to 99 per cent of the capital of an insurance company could come from abroad, in order to establish a subsidiary in Chile. The reinsurance market was also open to foreign providers. Foreign reinsurers could operate in two ways: by establishing a subsidiary in the country or by being registered with the superintendency, this entailed certain conditions and requirements. Regarding changes in regulations, initially the rates in Chile; had been controlled, supervision was focusing on solvency margins, risk equity capital requirements and investments. Technical reserves and risk equity had to be invested in instruments with good ratings. Compliance with criteria determining solvency was always required. The expert considered that disclosure of information to regulators was of particular importance, and likewise inspections, which also had to follow specific rules. If irregularities were found, the company in question could be fined or its license could be revoked. High solvency requirements had led to voluntary withdrawal by some weaker companies from the Chilean market. An example was given of a Mexican company with minimum solvency which had withdrawn. The measures mentioned could be applied by the superintendency without government involvement.

9. Regarding the Caribbean region, an expert explained that in the past very few insurance laws or regulations had existed; at that stage consumer complaints occupied a paramount position and concern focused on the safety and soundness of insurance companies, not only in relation to solvency, but also as regards risk. Companies in the region had been mostly small both in size and with regards to ratings; the wording of contracts had been widely ignored. Dispute settlement had been left mostly to the court system. The market was relied upon to weed out unsuitable practices. He also mentioned the difficulties of Caribbean countries to obtain reinsurance cover for hurricane risk; for this reason, no strict regulations could be applied to reinsurance.

10. It was mentionned that in many Asian countries the main concern and emphasis was on the stability of the financial markets. In Africa many countries still had markets with high levels of State involvement.

11. For the European Union (EU), an expert explained that an important change brought about by the most recent EU directive is the use of a single licence for the whole of the EU. An insurance company licensed in any EU member State could now do business in all other EU member States. This

change had initated a process of strengthening of competition within EU member States. New entrants from outside the EU, mainly from the United States of America and Switzerland, had been noted as well. In the case of Germany, the presence of new entrants had supplied German insurers with fresh ideas, but had also given rise to some problems, as for expample, the United Kingdom insurer that offered a product which its German competitors were not yet permitted to sell. So far the enhanced competition had not entrained serious financial problems. The expert listed the main changes brought about by liberalization as: (a) the licensing system (where a license was required from the home country only, but was sufficient to conduct business throughout the entire EU); (b) prior approval of tariffs and conditions (as had been the case in Germany) was now prohibited. Life insurers no longer needed prior approval of tariffs and conditions; they were entreated, however, to be cautious and to file their calculations with the supervisory authority.

12. As regards changes due to the General Agreement on Trade in Services GATS, the experts thought that the main changes would relate to accommodating cross-border trade, but that for the countries involved no major changes would occur as the liberalization process was already well advanced in their respective countries. One expert mentioned that in Germany, for example, the regulatory system would still be quite effective even after the changes within the EU and would comply with GATS.

13. Regarding foreign participation, experts agreed that a pre-condition for this was assumming the solvency of potential foreign entrants. It was stressed that foreign participation could be beneficial in terms of influx of capital and expertise, from the aspect of both underwriting and investment. One expert stressed that, notwithstanding the recognized importance of foreign capital, too much regulation would keep foreign capital away. In order not to lose control over the domestic insurance sector, it was advisable to require the foreign entrants to establish subsidiary companies which would be easier to control than branches. Branches might be considered "foreign" while subsidiaries would be more readily considered "local"; furthermore capital requirements for subsidiaries could be set by the regulator. On the question of differences between subsidiaries and branches, another expert added that the solvency of a branch could not be regulated. Another participant expressed the view that when attaching the highest importance to the protection of the consumer, branches of strong and sound parent companies, held an advantage over subsidiaries whose capital might be too limited for good security if they were geared to the market of a small country. The general conclusion was that both sibsidiaries and branches had advantages and disavantages and that this was still an open issue to be determined on a country-by-country basis. When considering the establishment of foreign-owned entities, the experts agreed that trust in the regulatory system and access to the regulator of the home country was of particular relevance.

2) The liberalization process and reasons for regulating and supervising the insurance industry.

14. Emphasis and goals (stability of financial markets, consumer protection, market efficiency, contribution of the insurance sector to economic development, etc.) differed from region to region and country to country. The South-east Asian countries were concentrating on market stability; a number of countries in Latin America had reoriented their approach from a system of fixed rates to one of monitoring solvency; the countries of Eastern Europe were placing emphasis on establishment of insurance markets based on market-economy principles. The EU had established a cross-border market based on fair competition with reciprocal recognition of home-country supervision. When considering the reasons for supervising insurance operations, one expert observed that the importance of insurance for the economic growth of countries was equal to that of protecting consumers and guaranteeing the safety and soundness of insurance companies. Another expert said that the externalities (investments in the economy)

brought about by the insurance sector were one of the main reasons for supervising the industry. As for possible conflicts that might arise between the goals of achieving market efficiency and protection of consumers, one expert praised the advantages offered by homogeneous products, especially in the context of developing countries, while another expert stressed that consumer education was more important than the homogeneity of products, and that a market where rates had to be approved was not really open. The expert added that, since the failure of individual companies could not be avoided with absolute certainty, consumer protection would be better achieved through safeguards such as guarantee funds, which could at least protect consumers against smaller failures.

15. One expert noted that liberalization was a process which should not be considered as a one-time event. This view was widely supported by the group. The same expert also emphasized that life and non-life insurance were quite different, and likewise compulsory insurance versus voluntary insurance. In the case of the Russian Federation all the actors forming the market (companies, consumers and the legal system) had not been prepared for the changes taking place; hence the regulatory system was not sufficiently developed. Compulsory insurance was better in certain cases, with controlled tariffs and underlying statistics being available. In this area the price of the product was less important than the policy conditions. Several experts expressed the view that, when moving to a liberalized market, it was difficult to avoid failures of companies and that while prior approval of tariffs and conditions should be abolished in the long run, when liberalizing their insurance market, developing countries could maintain a certain degree of prior approval especially of terms and conditions during a first phase towards liberalization in order to protect against market failure. One expert noted that, in the case of Chile, liberalization had meant more monitoring than before when bad management had been simply translated into higher but regulated tariffs. With regard to investment rules, liberalization had brought complications, especially concerning rules that would partially reflect the interests of the different "economic groups". Thus, there was more monitoring now than before the liberalization process began and it was of a more meaningful kind. One expert added that, for proper investment, strict and prudent rules were needed. Another expert questioned whether the new-found freedom and increased sophistication of insurance companies did not perhaps require an upgrading of monitoring skills and capacity. "Yes" was the prevailing answer from the group. It was agreed that, in the process of liberalization, it was imperative to apply new strict, clear rules from the very beginning and that establishment of a strong regulatory and supervisory framework was a pre-requisite for liberalization. In this respect, the case of Viet Nam was mentioned as the country intended to open its insurance market only after the adoption of a new insurance law.

16. One expert ennumerated the most important points considered when liberalizing a country's insurance market:

(a) Role, duties and powers of the supervisory authority established by law;
(b) Rules and legislation for good investment practices;
(c) Minimum capital requirements to avoid fragmentation of the market, and strict rules relating to technical reserves and solvency margin;
(d) Incurred but not reported claims should be stated separately;
(e) Rules for intervention by the supervisory authority in case a company flounders. Such rules should be sufficiently detailed so as to avoid loopholes and the possibility of unregulated situations;
(f) Information and disclosure requirements to establish transparency in the market and provide for fair competition.

Moreover, the monitoring of insurance should not only be performed be by the State, in this respect the role of external auditors, actuaries and rating agencies were highlighted.

17. One expert, supported by others, cautioned against translating regulations adopted by developed countries to the context of the legal

environment of developing countries. He explained that the EU countries, for example, shared the same political system, a comparable technical background, and the necessary actuarial knowledge, and had relatively sophisticated consumers. In this way, externalities could be achieved. These preconditions did, not prevail in most developing countrie, however. Therefore, he was of the opinion that developing countries should initially apply a minimal system, based on broad features and not too sophisticated only later they should make the transition to a fully liberalized market. He drew attention to the often very small markets of developing countries, where no economies of scale could be achieved and where mutualization of risk was insufficient. In such cases, more cross-border and reinsurance activities could be allowed. He warned that structures taken for granted in developed countries could not necessarily be expected immediately from developing countries.

18. Following the discussion on the liberalization process, it was agreed that one point should be clearly stressed, namely that there was no general prescription as to how to initiate such a process of liberalization: different countries had found different satisfactory solutions to regulation and supervision, and each country would have to devise its own system. Regulation and supervision of the insurance sector of a particular country had to be tailored to local conditions, political and management cultures and the outlook prevailing in that country. Furthermore, regulatory and supervisory systems needed to be adapted to match changing conditions, perceptions and economic needs. Systems could also be improved in the light of accumulated experience.

B. Supervision of insurance operations

1. Licensing and registration

19. Currently, as the experts have spelled out, insurance services were only allowed to be provided in most countries, with the exception of the EU, by companies that were registered and fully licensed by that country's regulatory body. Other than the reinsurance transfers only in rare cases were cross-border activities allowed (for example in the case of marine cargo insurance or when a consumer seeks services outside his home country). Several experts mentioned that in their own countries life and non-life products had to be offered by separate companies.

20. Regarding the ownership of companies, in order to protect consumers, experts agreed that it was of prime importance to know who were the main shareholders of a company in formation, as their composition provided an indication of the soundness and the long-term stability of the company. This was seen as particularly important in the case of foreign ownership. One expert mentioned that the reporting of ownership of insurance companies, as when a shareholder acquired more than a 10 per cent share or reached the limit of 10 per cent of the share-capital through smaller additions - was one of the new features that had to be incorporated into his country's insurance legislation in compliance with EU directives. He added that even the intention of acquiring shares beyond the 10 per cent threshold already had had to be reported before enactment of the new regulations. It was pointed out that the monitoring of changes in ownership was very important, in particular when the number of owners was small. One expert added that in Germany the supervisory authority had the right to object to "inappropriate" changes in ownership. Another expert said that in the United States change of ownership was a process nearly as difficult to accomplish as that of licensing, and that by no means was automatic approval to be expected. Such changes came under the Stock Exchange Control (SEC) and not the insurance supervisory authority. In Chile, the superintendency did not object to changes in ownership as long as the law was respected. Any change beyond 10 per cent participation had to be reported. There were about 50 insurance companies in Chile, of which only six were listed on the Chilean stock exchange. Some 70 per cent of the equity of insurance companies in Chile was held by foreign companies. In Bolivia, during the first three years of operation, change of company ownership is prohibited. Afterwards, changes in shareholding above 10 per cent have to be notified to the supervisory

authority.

21. Most experts agreed that fit and proper tests should be applied to the management of insurance companies. One expert stressed that it was not deemed necessary in her country to check on the management, as full responsibility and interest rested with the owners of a company to nominate the best-suited managers.

22. As regards capital requirements, an expert mentioned that in Chile only the start-up capital was clearly, established. Nevertheless, when an insurance company was operating, it was to comply with set levels of "risk equity" (defined as the highests result of either "the equity necessary to maintain the debt relationship", the"margin of solvency" and the "minimum start-up capital"). The risk equity levels were differing for life and non-life business, which were considered under the law as different types of businesses. It was reported that in the United States, statutory minimum requirements existed regarding capital, but actual requirements in most cases were much higher than the minimum requirements. Recently, the concept of Risk Based Capital (RBC) had been introduced to adjust the capital of companies in line with their "risk exposure". Formulas differed for life and non-life companies. Based on risk factors, they included investment, underwriting, interest and business risks for the non-life side, and on the life side assets, credit, indemnity and off-balance sheet risks. If the level of total adjusted capital of a company compared to RBC requirements was not adequate, this would prompt action on the part of the regulator. The type of action triggered depends on the level of adjusted capital. One expert informed the meeting about a peculiarity of the Bolivian market, where scarcity of capital did not seem to be a problem, despite the low reported returns on investment of only 2 to 3 per cent. The explanation for this was attributed to the small number of family-owned companies, whose market share had stagnated. However, these companies apparently provided owners with an acceptable level of return in the form of life-styles. As regards the form in which the capital had to be retained, an expert mentioned that in Chile, under the latest legal reform (1994) insurance companies could hold up to 15 per cent of their risk equity in the form of foreign assets. However, at the time of a company's inception, all capital had to be held in domestic assets. In the case of Bolivia, 10 per cent of the assets are to be deposited with the supervisory authority; 10 per cent were accepted as formation expenses, up to 45 percent as "useable assets", and the balance was held in the form of investments.

23. Concerning requirements for companies to submit a "business plan" in order to obtain a license, one expert expressed the view that this was just one more requirement and limited in importance, in view of the fact that the reinsurance companies had been determining such conditions to a large extent. Another expert reported that business plans were used in his country as a regulatory tool; they covered important information, such as what retentions would have to be applied for which lines of business, for example. Furthermore, any material departures from business plan must be first notified to the supervisory authority. An expert added that the business plan would be of critical importance if an insurance company wished to extend its business into another state of the United States of America; the plan could cover the initial requirement, but where it was intended to underwrite more business, the company's capital would have to be adjusted upwards. One expert drew attention to the difficulties encountered by the supervisory authority in many developing countries which did not have enough technical personnel at their disposal to perform in-depth analysis. In such cases, the supervisory authority had to resign itself to the fact that competition and market forces would determine a company's survival. An expert informed the meeting that, in the Russian Federation the reinsurance programme was an important part of the business plan. Another expert added that in Portugal a business plan was required and that, in order to analyse the financial data contained in it, the supervisory authority needed competent personnel.

24. The importance of external auditors and the necessity for actuarial reports were highlighted; these were needed at both the licensing stage and during on-going monitoring. The role of rating agencies in the monitoring of insurance companies was also recognized. An expert mentioned that, in Chile, the professional qualification of an actuary had not yet been recognized as a formal university level qualification. However, actuarial valuations were done by other professionals (statisticians, mathematicians, ect.) who acquainted themselves with this field. Insurance companies had to be rated by one of the well-known large risk rating agencies, that among other criteria judge the qualifications of the professionals who work in a company, among which are those who produce actuarial reports. One expert referred to Poland, where five years ago no actuaries were required, but were now mandatory. An expert explained that, in Germany, actuaries were qualified and certified professionals. Most insurance companies employed actuaries; often they formed part of the top management. An interesting feature, which could even be regarded as a conflict of interest, was that an actuary whose company disregards his advice, is obliged to so inform the supervisory authority.

25. Owing to the increased importance of intermediaries under liberalized market conditions (intermediaries are no longer selling only standardized products), all experts agreed that licensing and monitoring of intermediaries (agents and brokers) had become highly relevant. One expert mentioned that while the EU had moved from product control to more control of intermediaries, Germany still had not yet established any monitoring of intermediaries. He believed that countries in transition were already more aware of the problems involving intermediaries than were developing countries, but that both groups of countries should consider monitoring products and intermediaries to a certain extent. Another expert stated that intermediaries should show proof of a sufficient level of knowledge and competency. Another added that agents were linked to insurance companies, whereas brokers worked with many companies; their knowledge thus could be tested through examinations organized by supervisory authorities. It was pointed out that the system of self-regulation in the United Kingdom had not always been considered very satisfactory. While in the United States, many agents simultaneously sold products from several companies, there could, nevertheless, be prime companies providing for health and other benefits through a point system. The fact that insurance companies were permitted to sell only those classes of business in a specific state for which they had been licensed, had forced agents to widen their range of products by working for different companies. Likewise in the United States, an agent's principal was always responsible for his actions; in most states, commissions did not have to be disclosed, although the state of New York was regulating commissions (maximum 55 per cent) and expenses and had imposed an interdiction on rebating. In Germany, an agent normally sold only the products of one single company. If the agent, wished also to sell products of another company, he needed prior approval of the first company in order to do so. In life insurance a cap on commissions (4 per cent of written premiums of the contractual term) also existed in Germany. It was reported that, in Chile, life and non-life products had to be pursued by different companies within their own specialization; from this the need had arisen for an agent to be permitted to represent two companies (one life and another non-life company). In order to improve their knowledge of offered products, brokers and the public in general could freely access a register of all available policies at an "information centre". In Chile, intermediaries had to disclose their commissions. In Bolivia, an agent was a natural person while a broker was a company. In Portugal both agents and brokers were regulated, but more problems had been encountered with agents. An expert mentioned that in the United States more problems have been encountered with brokers who needed more supervision than agents. Besides intermediaries, other channels of distribution (through banks, direct selling, etc.) could prove more cost-efficient, especially for regular personal lines of business. Many experts emphasized that the professionalism of sellers was a key to the sound development of any insurance market and that all intermediaries should be competent, solvent and honest.

2. Monitoring of insurance operations

(a) Monitoring of financial solvency

26. The experts agreed that the principal problem facing a supervisory authority when a market had been liberalized (when shifting from a system of controlled rates to a system based on monitoring solvency) was obtaining the necessary relevant information needed in order to assess the real financial situation of companies. The bases for establishing efficient financial markets were improvement of information systems and transparency. An expert mentioned that in a non-liberalized market little attention was given to accounting, financial statements or reporting requirements. In view of the experience of several countries, the Expert Group recommended that during transition to a liberalized market, time and effort should be devoted by supervisors to the establishment of a working information system whereby relevant reporting standards could be developed and companies compelled to provide accurate information. This entailed a learning process, as an expert reported, as well as a change in attitudes and habits and might imply the use of coercion in the form of fines and other compliance measures. By the time the supervisory authority received reliable and relevant information from the companies, several testing tools could have been resorted to. Another expert referred to the difficulties of introducing ratio analysis and solvency margin requirements, as used in the EU and in the United States of America. Countries in transition and developing countries should devise a simplified but effective version, although there was always the problem of lack of reliability in statistics. Regarding reporting obligations and tests performed in the different countries, one expert said that in Portugal quarterly and annual reports were required. On the basis of these reports, the following checks were then performed: (a)compliance checks; (b)auditor's reports; (c)requests for any special reports; (d)solvency checks; (e)performance of first analysis; (f)application of diversification rules, congruency rules, life insurance categories, etc. The monitoring system also served the purpose of collecting data which then formed the basis for statistics published in aggregated form. In the Russian Federation requirements included an annual report, balance sheet, profit and a loss statement, and auditors report. The accurracy of the technical provisions was then checked as well as the efficiency of the investment portfolio. Any company in difficulties must submit quarterly reports and develop a financial recovery plan. These activities were supported through the simultaneous submission of data on computer diskettes. In setting out the United States's case, an expert proposed using relatively simple examples such as Arizona or Maine, rather than an overly complex case such as New York. Monitoring was fairly standardized, but differed clearly between life and non-life insurance. The Insurance Regulation Information System (IRIS), a model test devised by the National Association of Insurance Commissioners (NAIC), was applied. Any insurance company which had failed three or more IRIS tests was put on an "attention list". It was, however, not unusual for new companies initially to fail six or even seven such tests. New tests had also been developed on the basis of Risk Based Capital (RBC). In addition, every three to five years, field exams were conducted through the NAIC, one of the few occasions when state regulators intermixed. Considerable delays over test results involved had been reported: e.g. 1990 results were available either in 1993, 1994 or even in 1995. It was not unusual for new exams to become due while work on the previous one was still underway a shift in attention that did not help the quality of the earlier one. The German monitoring system, was described by an expert also. It was applied to all companies domiciled in Germany. Two different types of reports were made: external and internal. The external one was directed towards shareholders and the general public. It has been found that the external report under the new directive gave no more information on the separate classes of business than the previous one, and despite the argument of the supervisory authority that in a liberalized environment more information should be given to the public, the opposite has been the result. The external report for one reporting year is to be submitted by May of the following year to the supervisory authority and by September to the public. The internal report which is only meant for the

supervisory authority is to be submitted to the supervisory authority by June of the following year. It includes more details than the external report. (A new ordinance of the supervisory authority been issued to that effect). The internal report must include information by class of business; it must be directed solely to the supervisory authority and be treated confidentially, i.e. competitors were not entitled to see it. The supervisory authority also requires quarterly reports on main indicators and has developed an early warning system.

27. In describing the monitoring system of Chile, an expert explained that quarterly reports and balance sheets showing separate classes of business were required. From this information the supervisory authority drew up consolidated balance sheet for the entire insurance industry. Solvency checks of individual companies were available to the public, so that the compliance with established norms was transparent. Furthermore, any new information received by the supervisory authority was immediately reported to the superintendency's Public Information Centre. As regards reinsurance, contracts were not disclosed to the public, but information was provided concerning the identity of the reinsurance company. An expert described the Bolivian monitoring system, saying that basic data was published monthly; there were also quarterly and yearly reports, including a compliance report, an audit and an actuary's report. These served to assertain liquidity and solvency; information was also provided in computer-readable form. The Bolivian superintendency numbered 50 persons to supervise 18 insurance companies which together had a direct production of about US$50 million. The biggest company held a market share of about 40 per cent. Setting out the monitoring system of Guernsey, the expert explained that it was a clear example of an offshore market. He mentioned that the intention was to rely less on "historical" data and information, and to approach "real-time" monitoring on a daily basis through the requirement of reporting any material changes immediately. Thirty-five representatives (which were legal companies in their own right) took care of about 300 licensed companies. The latter's returns had to be submitted four months after the end of the financial year. They included audits, underwriting schedules, run-off business, triangulations, and solvency margins (18 per cent of the net premium income for the first £5million, and 16 per cent for the remainder.) Life insurers had to submit an actuarial report. Owing to limitations of size, the supervisory authority did not have its own actuary, but obtained the services of an independent consulting actuary, as needed. The supervisory authority accepted different styles of accounting (e.g. accrual basis, as in the United States, or the United Kingdom system), but only information referring to domestic accounts was made available to the public and domestic shareholders. Protection of insurance companies and their shareholders through non-disclosure guarantees was an important feature of an offshore market. As to the type of companies registered in Guernsey, the example of Polygon was cited. Capitalized at US$ 50 million, the company was a captive for several European air carriers, but was also writting third party aviation business and represented the largest and most complex company in this market.

28. On the issue of insolvencies discussed in the draft of the UNCTAD document, one expert proposed adding unsound use of derivative products to the list of factors that could entrain financial difficulties. He confessed being rather skeptical about the wisdom of insurance companies using derivatives; they had been used by only 70 of 800 companies operating in Germany his home country. Their use should be guided by utmost caution and they should only be used for legitimate hedging purposes. One company had incurred losses of about DM 130 million, because it had expected a fall in interest rates but rates had risen instead. The meeting agreed that there were potential dangers in the indiscriminate use of derivatives and so recommended that one option might be to limit their use to "calls" and to avoid "puts". An expert referred to one another area which could pose problems, namely retrocession to affiliates, if used to hide problems. On the question of whether financial reinsurance could be considered a problem area, the experts responded that it depended on how it was handled. There could be problems if it was done with an affiliate. Another expert mentioned poor reporting and poor accounting as being a main problem area. In this

connection, an expert emphasized the problem of receiving reliable balance sheets. In Chile, for example, at the beginning of the liberalization process fines had had to be applied. Companies had to be trained to supply all relevant information. It was reported that in the Russia Federation similar problems had been encountered. At the beginning of the privatization process there, very simple ratios and calculations had had to be used; even today statistics were still based more on premiums received than on loss ratios. Smaller developing countries with rather limited markets might find simplified models for monitoring more appropriate, at least initially. The United Kingdom in 1946 had had only a flat rate of 20 per cent for solvency requirements; this was the method applied in Russia today.

29. For assessing the financial reliability of an insurance company, experts stressed the importance of monitoring investments. An expert pointed to the difficulty of achieving the necessary spread of investments if they all had to be held in the form of local assets. Another expert mentioned the importance of constantly updating the capital requirements and asset valuation data, in order to reflect inflationary changes. An expert reported that in Russia, 80 per cent of the technical reserves had to be held locally, and 20 per cent could be held abroad; it was also possible to hold local assets in US dollar denominated accounts.

(b) Supervision of business conduct

(i) Underwriting and rating

30. An expert stressed that underwriting decisions directly influenced the financial soundness of insurers. Understanding the underwriting practices of a company was thus of prime importance for assessing a company's financial situation. She proposed that the UNCTAD study should reflect this point. This move was seconded by another expert. Developing countries it was noted often paid insufficient attention to underwriting information, although it was the key to pricing.

31. As mentioned several times during the meeting, one of the features of a liberalized market was to move away from fixed rates to allow market conditions to guide the levels of rates. A number of Latin American countries provided relevant examples of such an approach. Referring to the EU, where prior approval of rates and conditions had been abolished, one of the experts saw some merit during transition to a liberalized market for developing countries to continue some form of prior approval for rates and of terms and conditions. In the Russian Federation, an expert explained, the conditions prevailing in the compulsory insurance sector were better as compared to other lines, as tariffs were controlled and set after negotiations between concerned parties in the light of available supporting statistics. In the life insurance sector, there might be insufficient monitoring of rates, as insurers tended in their rate calculations to resort to the maximum interest rates on the market. One solution proposed was to determine minimum and maximum interest rates that could be used for establishing rates, although in general, control of rates proved difficult in the absence of statistics or the ability to monitor the methods for establishing the rate structure within the supervisory department. An expert cautioned that under a system of fixed tariffs, costs linked to bad management could quite simply find their way into the rate structure. One expert referred to what the draft document had called a weakness of controlled rates, if they were the result of yielding to political pressure for cheap insurance prices at the expense of solvency and security. Despite this that the German supervisory authority had been criticized in the past (when rates were controlled), for keeping rates too high. In fact, the supervisory authority was authorized to make regular interventions only when the premiums were too low to cover the expected payable claims, and the solvency of the insurnce company seemed to be jeopardized. It was not authorized to do so, when the premiums were too high, which would seem to support the allegation. However, this was considered a consciously chosen prudent measure where, in the opinion of the supervisory authority, the

benefits clearly outweighed any disadvantage of somewhat higher prices. In the opinion of another expert two contradictory basic philosophies were at work. One sought to deal with the insolvency problem, while the other was concerned with consumer protection. Germany apparently applied what could be called a "parental" system, seeking to do what was perceived to be in the best interest of consumers, while it was commonly accepted in the United States and other countries that some companies would fail as a matter of course and be forced to withdraw from certain markets. This could in turn create a capacity problem, however, where it would be difficult to find cover for certain risks. In addition, the United States seemed to show a certain predilection for discounting, which in itself tended to bring prices down through fierce competition.

(ii) The insurance contract

32. On the question of monitoring of contracts, an expert mentioned that in Chile after the fixed rate system had been abandoned, the supervisory authority concentrated on monitoring of insurance policies which had to be registered prior to being marketed. The registration process entailed on the part of the superintendency to check whether wording and structure of policies could not induce misunderstandings on the part of policy-holders. Once registered, all companies were allowed to use these registered policies: the supervisor did not have the resources to look into individual contracts. An expert mentioned that, in the case of Germany, contracts were examined in connection with complaints; standard models existed for different types of insurances, drawn up by the associations of the German insurers. Another expert stressed that contracts should be clear and simple so that the average consumer could comprehend them easily. Comprehension tests based on word counts and type of words used were conducted in several states of the United States. A comparison between model contracts, on the one hand (the practise for example in Germany and Portugal) and the other extreme of contract wording which is proprietary and protected by copyright (as used for example in the United States) was then discussed. This difference was thought to be conceptual: in Europe many countries tried to standardize policies; in the United States the major effort amounted to making them different for marketing purposes.

(iii) Marketing, and monitoring of intermediaries

33. The monitoring of intermediaries has been discussed extensively under the licensing section (see paragraph 25 above). However, the following additions were mentioned. In Chile concerning problems with intermediaries, brokers often did not have full knowledge of all available policies; therefore a register was being set up for use in the public domain and available through the Public Information Center. Experts at the meeting considered that the Public Information Center of Chile probably merited consideration by other countries in their search for improved transparency. Another expert added that, in order to avoid "churning"- consisting of trying to convince consumers to replace existing policies with new ones carrying only minor additional benefits in order to obtain new commissions- policy applications for new contracts should contain information on policies thereby cancelled. It was recommended that developing countries take steps to monitor intermediaries.

(iv) Public complaints and education of consumers

34. An expert mentioned that in order to investigate public complaints, a supervisory office needed considerable resources. Another expert said that handling of public complaints should be seen as an important function of a supervisory body; supervisory responses to public complaints made the industry jump to attention and led to an almost immediate response. An expert drew attention to the fact that public complaints, in addition to their consumer-protection functions, had yet another role, namely to alert the supervisory authority to practices which would provide clues as to malpractice, systematic delays or other operations meriting a closer look by the supervisory authority. This point was seconded by another expert who

said that too many complaints against the same company should trigger an investigation. Supervisory authorities should be keenly interested in inter-company comparisons as to the number of complaints. Other questions equally needed attention, such as consumers understanding of certain policy clauses, or if systematic delays had occurred in the settlement of claims. Equally, there was a need to educate the public to direct complaints first to the company concerned, and only when an arrangement could not be found to resort to the supervisory authority. An expert mentioned that, in the case of Guernsey, the supervisory body could not arbitrate between a company and a policy-holder; such matters had to be dealt with by courts of law. The supervisory authority was, nevertheless interested in complaints with respect to company solvency. In the United Kingdom an arbitration commission could award binding arbitration decisions. There were cases mentioned of arbitration in Europe that were binding only the companies while the policy-holders could refuse the settlement and proceed to court action, the intention being to protect the small consumer, while consumers in cases of large claims were assumed to be at least as sophisticated as the other party. An expert added that the German supervisory authority could not perform arbitration, nevertheless, about one third of the complaints lodged were, at least partly, successfully resolved. Insurance companies were obliged to inform the consumer about the possibility of launching complaints with the supervisory authority. The United Kingdom had an insurance ombudsman, he believed. Another expert informed the meeting about insurance arbitration in Bolivia: the supervisory authority provided space on its premises and both parties to the conflict could choose one arbitrator, while the supervisor was informed of the process and outcome.

(v) Transfers, rehabilitations, liquidations

35. In reference to the liquidation procedures for insurance companies, an expert explained that in Portugal they were covered by general law, the supervisory authority did not intervene in the liquidation process per-se. So far there had been no failures of life insurance companies in Portugal. In cases of transfers of life insurance policies from a weak company, problems could occur; however, the supervisory authority could act immediately, without having to refer to the courts. Another expert explained that the supervisory authority in Russia could only cancel licenses. Liquidations were left to the courts. In Chile, the supervisory authority could liquidate an insurance company if necessary; a company itself could also elect to go into liquidation. Another expert described the German practice, where an insurance company could not itself propose to go into liquidation; instead, the company had to inform the supervisory authority of emerging difficulties, if they were not already known. Only the authority was competent to decide whether liquidation was necessary; if so the authority would apply to the law court to start a liquidation procedure. The supervisory authority could make proposals regarding court appointed liquidator. An expert explained that, in the United States, the supervisory authority decided on liquidation, a process entirely under insurance law. In Bolivian practice, the severity of the situation dictated whether the supervisory authority granted a grace period of 280 days to rehabilitate the company in question, or whether immediate liquidation was required. In the latter case, a liquidator selected through a bidding process had the obligation to report on progress every six months to the supervisory authority. In the case of transfers of life business in Guernsey the difficulty was mentioned of needing to serve notice to absent shareholders or policy-holders in an offshore market. The solution may be to enable them to be informed by public notice instead. The supervisory authority had the possibility of imposing conditions by mandating that assets of a company in difficulties should not be disbursed. A proposed feature in Guernsey was the preferential treatment of policy-holders over ordinary creditors.

36. When an insurance company had to be liquidated, guarantee funds could provide a useful tool for safeguarding the interests of policy-holders. As to whether guarantee funds should be financed through levies on premium income,

one expert said that in the United States this was the case for property and casualty business in some states. Information as to the existence of a guarantee fund was given to the client only upon request. She added that the assessment of financial requirements after a breakdown could pose problems. One expert voiced a preference for the method of pre-assessment, but pointed out that the amounts available could prove insufficient. An expert drew attention to the fact that, in most cases, the business of an insolvent insurer was taken over by a stronger company; moreover insurance did not follow general bankruptcy laws. In the United States, in cases of insurer insolvency, the tax authority had first priority over remaining assets, policy-holders second priority, and creditors only third. In Russia, it was reported there were as yet no guarantee funds; insurance companies were unwilling to pay for losses created by what they perceived as poorly managed competitors. Another expert believed that in the European Union context, guarantee funds should apply to all European Union residents. The United Kingdom fund, however protected only United Kingdom customers. A compulsory guarantee fund has not yet been established in Germany. A system of self-regulation could also benefit from a guarantee fund, it was noted. The total size of such a fund and the maximum amount guaranteed should be considered. State intervention should serve only as last recourse. In the case of developing countries, experts expressed a preference for pre-funded solutions. One expert said that guarantee funds would have to reflect the type of business for which they were conceived, and that life and non-life insurance differed greatly in this respect. The existence of an European Union wide guarantee fund for third party liability in motor insurance was mentioned. There was no guarantee fund in Guernsey, where independent custodianship, for life business, of assets was used instead. In the case of Germany, an expert mentioned that, except for motor third party liability insurance, no guarantee fund had been established despite efforts to convince the insurance industry of its usefulness. Such proposals had been stalled with the argument that no insolvencies occurred for more than 60 years. There had been no support even for a contingency guarantee fund, to be set up after the event. Instead, the German supervisory authority applied an independent trustee to secure the mathematical reserves of life insurance business, which could not be dissolved without the trustee's consent. While this method seemed sufficient to"ring-fence" invested assets successfully, a problem could still arise as far as the cash assets of about 10 per cent were concerned. Generally guarantee funds provided no reliable alternative to effective prudential supervision. Strong reserves and prudent investment practices were seen as the most important means to avert possible failures.

C. Monitoring of reinsurance

37. When assessing the financial solvency of an insurer, monitoring of the security of its reinsurance providers was deemed as essential. Monitoring of reinsurance programmes was also viewed as important. The level of technical know-how that a supervisory authority possessed in order to assess such programmes, was, however,believed to be often lacking in many developing countries. In Chile, most reinsurance was transacted through registered reinsurers, transactions with unregistered reinsurers were not permitted. In the Russia Federation reinsurance was still unregulated. In Bolivia, the supervisor would not accept a reinsurer that was operating from a country perceived as not sufficiently monitoring its reinsurers.

D. Powers and organization of supervisory authorities

38. There was considerable support for the recommendation that when liberalizing the insurance market, a supervisory authority should be established, with its role, powers and duties defined by law. This would confer on the body the necessary stability and independence enabling it to fulfill its responsibilities. As to the sectors that such a body should supervise and whether banking and insurance services could be monitored by the same authority, the experts agreed that while some economies-of-scale could be attained in terms of administrative support and exchange of experience and information, specifics of each sectors needed to be taken fully into account. Benefits could, however, accrue from a combined effort

in cases of significant cross-holdings between banks and insurance companies. One expert mentioned that in most developing lusophone countries, supervisory authorities for banking and for insurance lacked the necessary ressources to effectively perform their duties. In such countries, flexibility was required to overcome this unsatisfactory situation. An expert reported that in Guernsey, the supervisory functions for banking, insurance and investment undertakings were combined in the Financial Services Commission. In a case such as the recent insolvency of Barings Bank, the closeness and good contacts between the independent supervisory branches under the Financial Services Commission had proved invaluable.

39. As for supervisors' access to the highest political level, an expert drew attention to the fact that while commendable, insurance being a sophisticated technical business, in particular for developing countries, the problem was that the highest political levels were often not sufficiently knowledgeable about the intricacies of the business. Access to high political levels was therefore less important than having good insurance legislations. One expert drew attention to the need for flexibility, so that changes in supervisory practises would not require time-consuming changes of law. A system was needed such that insurance laws or statutes with sufficient enabling powers formed a relatively stable base and all the technicalities and provisions for *ad hoc* changes formed part of regulations which could be updated at the discretion of the supervisory authority. In response to the surprise expressed by one expert that a supervisory authority would be given such discretionary powers, the response was that proper administrative procedures should suffice to prevent problems. As regards, attributing the supervisory authority a role in development and economic growth, Morocco, was cited as an example of a the active contribution a supervisory body could make.

40. In safeguarding the independence and effectiveness of a supervisory body, it was important to secure a reliable and stable source of funding. In this respect, one expert raised the issue of dedicated versus non-dedicated budgets for supervisory authorities. The system prevailing in many states of the United States was to tax premium income, but not investment income; moreover, the tax on premiums was used to pay for the supervisory authority in a fee-for-service manner. Differences existed, however, among the various states in this respect. Another expert voiced a preference for a levy-financed supervisory authority over government-funded supervision, for reasons of independence from government. In the German system, the cost of the supervisory authority was included in the general budget, so that the supervisory authority had to accept budgetary discipline. In a second step, 90 per cent of the cost of supervision was recovered from the insurance industry in the form of levies assessed on premium income. The law permitted an upper limit of 0.1 per cent for such levies (or one per mille), whereas the real costs of supervision for the industry in the budgetary year 1993/94 amounted to only one fifth of the maximum, or 0.02 per cent. The Portuguese supervisory authority was fully funded by a levy on premium income, but different rates applied for life, non-life and pension business.

41. The meeting agreed that the sections presented in draft document covering "Human resources" and "Cooperation among supervisory authorities" could stand as they were and did not need to be changed or expanded, it was also agreed that the structure of the paper need not be altered. As regards cooperation among supervisors, mention was made of the different international, regional and sub-regional supervisory authorities associations. One expert proposed that he UNCTAD study should include a reference to one of the findings of the meeting, namely that no general prescriptions seemed to be appropriate, that different countries had found different but satisfactory solutions to regulation and supervision, and that each country should draw its own conclusions. It was decided to incorporate this observation.

E. Future trends in supervision of the insurance industry

42. Following their discussion of the draft documents prepared by the UNCTAD secretariat, the experts briefly discussed where supervisory authorities were heading beyond the year 2,000 and whether issues of growing importance or totally new ones could be identified; the question of whether a new focus or shift in emphasis was needed was also raised.

43. One expert mentioned the clear need for an enhanced research capacity for supervisory authorities in relation to their own future outlooks (e.g. in the domain of market analysis, annuity calculations and other technical fields). Many areas merited a closer look; the fact that more and more insurance products were being developed and offered from outside the insurance industry was one such area. Another expert identified reinsurance as an area where future problems might loom. She wondered which player in the international insurance market was a real global actor and whether the capacity of the international reinsurance industry matched the risks on a global scale. In this respect it was mentioned that the UNCTAD secretariat would present a study on catastrophe risk to the third session of the Standing Committee on Services: Insurance. This study put particular emphasis on the problems encountered by developing countries in that area.

44. Another expert identified the area of financial conglomerates, where banking and insurance overlapped, as a potential problem area. The barriers between the two sectors were clearly breaking down and separations in the area of distribution seemed to be disappearing. Furthermore, he saw the tendency of risks being transferred from the area of social security to the insurance sector through mandatory insurance being required by law. As an example, he cited Portugal, where 27 different types of mandatory insurance were found. Changes in social security were creating a need for complementary or additional insurance programmes.

45. There was futhermore the issue of regionalization and globalization: with EU membership, more cross-border activity by member countries was expected. This would enlarge the insurance market. State-controlled or state-owned companies would be privatized. On-going and future mergers and acquisitions in the insurance industry pointed to the globalization of this sector. The industry would undoubtedly outgrow existing trading blocks. In this relation, the question was raised as to whether there would be a move from State monopolies to private monopolies. One expert responded that, in Germany, as a result of reunification, after the purchase of the former state monopoly by Allianz, there had been real fears of a new monopoly arising. These fears, however, had not materialized: there was no monopoly problem since more than 300 companies were active in the geographical area of eastern Germany and competition was thriving. There had, however, been serious problems with intermediaries in the area of marketing, where an unexperienced public sometimes faced unscrupulous sales practices conducted by pyramid-organized sales forces (Strukturvertriebe) that were not required by law to possess any professional qualifications. Another expert referred to the example of City Bank, which had withdrawn from the insurance field since it could not build up a significant market share. She referred to the American Insurance Group (AIG) as the only truly global company of American origin in direct insurance. As to the fears of African countries that they could be pushed aside by the liberalization process, an expert pointed out that ways existed for protecting local industry, by for example limiting shareholdings to 49 per cent, or engaging in joint ventures. Another expert expressed the view that, at present, the insurance market was already global. He then stressed the importance of cooperation between regulators and how much people could learn from each other. Equally, there was a need for trust. He referred, in this context, to the Dingell report.

46. However, for this same expert failures were the main concern: failures of insurance companies had occurred in the European Union (for example in Italy, Spain, the United Kingdom and certain Scandinavian countries). It should be possible to avoid failures in future, he believed. Another expert thought that with the new situation and rules, more failures could be

expected in future. This might simply be a normal phenomenon in market economies. Another expert adding that in the United States efforts were concentrated on protecting the policy-holder, as opposed to the individual insurance company. It was pointed out that, in Germany, buy-outs of companies in difficulties were preferred over outright collapse. Another expert observed that buyers of risky insurance should face the consequences. However, his attention was drawn to the problems that arose when life insurance failed, where the average length of a contract was 28 to 29 years; the expert responded that in his country such failures would be considered quite undesirable.

47. Finally the experts briefly discussed tax treatments favourable for increasing the attractiveness of long-term products. One expert pointed out that in her country there was no tax on investments in life insurance, which were very popular products and sophisticated long-term financial planning was in place. Another expert added that, in Germany, a minimum contract duration of 12 years applied before tax privileges were granted such products were gaining in popularity.

Annex

List of Participants

UNCTAD Expert Group on Regulation and Supervision Geneva, 19-20 June 1995

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